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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/915,100	07/25/2001	Michael J. McMahon	769-236 Div.2	7902

29540 7590 07/19/2002

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EXAMINER

SIPOS, JOHN

ART UNIT	PAPER NUMBER
3721	

DATE MAILED: 07/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Offic Action Summary</b>	Application N .	Applicant(s)
	09/915,100	MCMAHON ET AL.
Examin r	Art Unit	
John Sipos	3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on \_\_\_\_\_.  
 2a) This action is **FINAL**.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 6-8 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_ is/are allowed.  
 6) Claim(s) 6-8 is/are rejected.  
 7) Claim(s) \_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.  
 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.  
 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.  
 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)      4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)      5) Notice of Informal Patent Application (PTO-152)  
 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.      6) Other:

## ***REJECTIONS OF CLAIMS BASED ON FORMAL MATTERS***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following is a quotation of 37 CFR 1.71(a)-(c):

- (a) The specification must include a written description of the invention or discovery and of the manner and process of making and using the same, and is required to be in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which the invention or discovery appertains, or with which it is most nearly connected, to make and use the same.
- (b) The specification must set forth the precise invention for which a patent is solicited, in such manner as to distinguish it from other inventions and from what is old. It must describe completely a specific embodiment of the process, machine, manufacture, composition of matter or improvement invented, and must explain the mode of operation or principle whenever applicable. The best mode contemplated by the inventor of carrying out his invention must be set forth.
- (c) In the case of an improvement, the specification must particularly point out the part or parts of the process, machine, manufacture, or composition of matter to which the improvement relates, and the description should be confined to the specific improvement and to such parts as necessarily cooperate with it or as may be necessary to a complete understanding or description of it.

The specification is objected to under 37 CFR 1.71 as failing to adequately teach how to make and use the invention, i.e. failing to provide an enabling disclosure. (A rejection of claims based on this objection follows this paragraph.) The disclosure is unclear as to how a slider is placed on a fully interlocked zipper fastener. In order to insert the separating blade of the slider between the interlocked members of the zipper, the interlocked members need be slightly separated. The disclosure does not discuss the slider application method in sufficient detail to predicate claims thereon.

**Claims 6-8** are rejected under **35 U.S.C. ' 112, first paragraph**, as being predicated on an **insufficient disclosure** for the reasons set forth in the objection to the specification set forth above.

### ***REJECTIONS OF CLAIMS BASED ON PRIOR ART***

The following is a quotation of 35 U.S.C. ' 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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**Claims 6-8** are rejected under 35 U.S.C. ' 103(a) as being unpatentable over the patent to Lems or Sanborn in view of Thieman. The patents to Lems and Sanborn show packaging operations comprising the steps of providing a series of connected bags with zipper fasteners and feeding the bags to a filling and sealing station. These references do not show the application of sliders to the fasteners. The patent to Thieman shows the application of sliders 48 to the zipper fastener while the lower portion 50b,52b of the fastener remain fully interlocked (see column 4, line 20 et seq.). It would have been obvious to one of ordinary skill in the art to provide sliders to the connected bags of Lems or Sanborn as shown by Thieman to provide a bag opening aid to the consumer.

**Claims 6-8** are rejected under 35 U.S.C. ' 103(a) as being unpatentable over the patent to Lems in view of the patent to Donovan or Kosky or Herrington. The secondary references show the applications of sliders to zipper fasteners while the fasteners remain in their substantial full interlocked condition. In Donovan the slider is applied lengthwise to the zipper while the zipper is fully interlocked and in Kosky and Herrington the slider is transversally applied while the zipper is just slightly separated to allow insertion of the separating blade (see column 1, line 39 of Kosky). It would have been obvious to one of ordinary skill in the art to provide sliders to

the connected bags of Lems as shown by Donovan or Kosky or Herrington to provide a bag opening aid to the consumer.

**Claims 6-8** are rejected under 35 U.S.C. ' 103(a) as being unpatentable over the patents to Donovan and Thomas in view of the patent to Thomas. The patent to Donovan applies the sliders to the bag material that will be formed into a plurality of connected bags prior to the formation of the bags. The patent to Thomas shows the application of the slider as the last step in the process after formation and filling of the bags. It would have been obvious to one of ordinary skilled in the art to apply the sliders of Donovan as the last step in the packaging process as taught by Thomas thereby not having the zipper/slider present during the filling and sealing operation to maintain the zipper/slider clean.

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### **RESPONSE TO APPLICANT'S ARGUMENTS**

Applicant's argument that the Lems reference is not usable in the rejection due to the open condition of the bag during filling, the claims do not limit the invention in any way to a specific sequence relative the filling of the bag. In fact the filling of the bag is not recited in any of the claims. Furthermore, the application of the slider could take place after the filling operation. Also note that although Lems shows bags with the zipper fastener not being positioned adjacent the edge of the bags, such bags are well known in the art and all the other applied reverences show the zipper fastener to be on the bag edge.

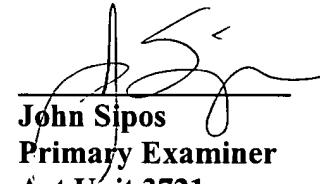
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Any inquiry concerning this communication should be directed to **Examiner John Sipos** at telephone number (703) 308-1882. The examiner can normally be reached from 6:30 AM to 4:00 PM Monday through Thursday.

The **FAX** number for Group 3700 of the Patent and Trademark Office is **(703) 305-3579**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Peter Vo, can be reached at (703) 308-1789.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is (703) 308-1148.



**John Sipos**  
**Primary Examiner**  
**Art Unit 3721**

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